

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 27, 2012

11 3:14 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOHN FLANAGAN, Acting President

19 FRANCIS W. PATIENCE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT FLANAGAN: The
3 Senate will come to order.

4 I ask everyone present to please
5 rise and recite the Pledge of Allegiance.

6 (Whereupon, the assemblage
7 recited the Pledge of Allegiance to the Flag.)

8 ACTING PRESIDENT FLANAGAN: In
9 the absence of clergy, I would respectfully
10 ask everyone to bow their heads in a moment of
11 silence.

12 (Whereupon, the assemblage
13 respected a moment of silence.)

14 ACTING PRESIDENT FLANAGAN: The
15 reading of the Journal.

16 THE SECRETARY: In Senate,
17 Monday, March 26th, the Senate met pursuant to
18 adjournment. The Journal of Sunday,
19 March 25th, was read and approved. On motion,
20 Senate adjourned.

21 ACTING PRESIDENT FLANAGAN:
22 Without objection, the Journal stands approved
23 as read.

24 Presentation of petitions.

25 Messages from the Assembly.

1 The Secretary will read.

2 THE SECRETARY: On page 21,
3 Senator DeFrancisco moves to discharge, from
4 the Committee on Local Government, Assembly
5 Bill Number 9336 and substitute it for the
6 identical Senate Bill Number 6471, Third
7 Reading Calendar 449.

8 ACTING PRESIDENT FLANAGAN:
9 Substitution ordered.

10 Messages from the Governor.
11 Reports of standing committees.
12 Reports of select committees.
13 Communications and reports from
14 state officers.

15 Motions and resolutions.

16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO:
18 Mr. President, I move that the following bills
19 be discharged from their respective committees
20 and be recommitted with instructions to strike
21 the enacting clause. The first one is a
22 Senator Flanagan bill -- an excellent bill, I
23 might add -- Senate 1883A.

24 I also request that we offer the
25 following amendments to Calendar Number 316,

1 on page 12, which is Senate Print 4210, also
2 an excellent bill, by Senator Farley.

3 ACTING PRESIDENT FLANAGAN:
4 Senator DeFrancisco, if I may. On your first
5 one, I just want to say so ordered.

6 And on the second one, the
7 amendments are received, and the bill will
8 maintain its status on the Third Reading
9 Calendar.

10 SENATOR DeFRANCISCO: And in
11 addition, on page 17 I offer the following
12 amendments to Calendar Number 401, it's Senate
13 Bill 6668, by Senator Lanza. It's a pretty
14 good bill.

15 ACTING PRESIDENT FLANAGAN: The
16 amendments are received, and the bill will
17 retain its place on the Third Reading
18 Calendar.

19 SENATOR DeFRANCISCO: And
20 lastly, Mr. President, I wish you to call up
21 Bill Number 6084A, by Senator Grisanti,
22 recalled from the Assembly, which is now at
23 the desk.

24 ACTING PRESIDENT FLANAGAN: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 193, by Senator Grisanti, Senate Print 6084A, an
3 act to amend the Parks, Recreation and Historic
4 Preservation Law.

5 SENATOR DeFRANCISCO: I now move
6 to reconsider the vote by which this excellent
7 bill was passed.

8 ACTING PRESIDENT FLANAGAN: The
9 Secretary will call the roll on reconsideration.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 45.

12 SENATOR DeFRANCISCO: I now offer
13 the following amendments.

14 ACTING PRESIDENT FLANAGAN: The
15 amendments are received.

16 SENATOR DeFRANCISCO: Thank you.

17 ACTING PRESIDENT FLANAGAN:
18 Senator Libous.

19 SENATOR LIBOUS: Mr. President,
20 thank you.

21 At this time may we please adopt
22 the Resolution Calendar, with the exception of
23 Resolutions Number 3701, 3716, and 3747.

24 But before we adopt the Resolution
25 Calendar, Mr. President, I believe that Senator

1 Serrano and Senator Parker would like to speak on
2 a resolution that's on the calendar.

3 ACTING PRESIDENT FLANAGAN: Thank
4 you, Senator Libous.

5 Senator Serrano on the resolution.

6 SENATOR SERRANO: Thank you very
7 much, Mr. President.

8 Senator Libous, thank you.

9 I'm here to talk about Earth Hour.
10 Earth Hour is a global event that happens every
11 year. This year it will be happening March 31st,
12 between the hours of 8:30 and 9:30. And during
13 that hour we ask people everywhere to turn off
14 their lights just for one hour.

15 I've carried this resolution since
16 2008. Participation grows every single year.
17 And like I said, it's a worldwide event. This
18 resolution commemorates that, and it also
19 encourages more participation.

20 Global treasures throughout the
21 world, from the Sphinx in Egypt to the Empire
22 State Building, will go dark for that one hour
23 from 8:30 to 9:30.

24 And it will greatly reduce the
25 carbon footprint across our globe. For example,

1 in 2007, in Sydney, Australia alone, the turning
2 off lights for one hour during Earth Hour was the
3 equivalent of reducing about 50,000 automobiles
4 from the road.

5 Now, when we consider the high
6 asthma rates in a place like the South Bronx or
7 East Harlem, that kind of impact is truly
8 significant.

9 And more importantly, it teaches
10 our youngsters and our children that making small
11 changes in the way that we consume in our society
12 actually has a great effect on our environment.

13 So I thank all of my colleagues for
14 their support of Earth Hour, and I look forward
15 to the passage of this resolution today.

16 Thank you.

17 ACTING PRESIDENT FLANAGAN: Thank
18 you, Senator Serrano.

19 Senator Parker.

20 SENATOR PARKER: Thank you,
21 Mr. President. I rise to speak on Resolution
22 Number 3789.

23 And this resolution, Mr. President,
24 honors the sacrifice and heroism of patriots who
25 saw America fail her promise and knew she could

1 do better, who on March 7, 1965, through silent
2 nonviolent protests, sought to redress grievances
3 that impact the most basic right, the right to
4 participate in our democracy.

5 A hundred years had passed since
6 the Civil War and the passage of the
7 15th Amendment which granted the rights of
8 citizens of the United States or by any state on
9 account of race, color, or previous condition of
10 servitude. Yet through the rise of poll taxes,
11 literacy tests, and district manipulation,
12 tactics including cracking, packing, and
13 stacking, states disenfranchised and diluted the
14 African-American vote.

15 The situation was particularly dire
16 in Southern states. For example, in Dallas
17 County, Alabama, although African-Americans
18 comprised over 50 percent of the population, only
19 2 percent were registered to vote.

20 Six hundred patriots, led by the
21 Dallas County Voters League, the Southern
22 Christian Leadership Council, and the Student
23 Nonviolent Coordinating Committee, SNCC, sought
24 to march from Selma to Montgomery, a 54-mile
25 journey along Route 80. However, their silent

1 journey came to an abrupt end at the Edmund
2 Pettus Bridge, a mere six blocks into their
3 march. Here these heroes were brutally assaulted
4 by heavily armed state troopers and deputies.

5 That evening ABC interrupted the
6 showing of Judgment at Nuremberg to play footage
7 of the injustice and the travesty that took place
8 that day on the Pettus Bridge.

9 Protests were held in 80 cities the
10 next day, and a little over a week later
11 President Johnson, before a joint session of
12 Congress, asked that all Americans be given equal
13 rights to participate in our democracy.

14 On Sunday, March 21st, about 3,200
15 marchers set out for Montgomery, walking 12 miles
16 a day and sleeping in fields. And by the time
17 they reached the capital on Thursday, March 25th,
18 they were 25,000 strong. A few months later, in
19 August, President Johnson signed the Voting
20 Rights Act of 1965.

21 So where are we today? Where are
22 the sacrifices that were made by so many those
23 30 years ago? We diminish the rights of
24 communities through cracking, packing and
25 stacking.

1 Islip is split. Hempstead is still
2 cracked between four districts. Rochester is
3 still split between three districts. Buffalo and
4 Niagara are still split apart. Syracuse is split
5 two ways. And in Erie County there was an effort
6 to remove every African-American from the
7 district in a process of separating two large
8 African-American communities into Senate
9 districts, diluting African-American voting
10 strength.

11 The City of Rochester, which can
12 easily be contained to one Senate district, is
13 now split into three districts, represented by
14 incumbents who all live outside the city.

15 As we represent the sacrifice of
16 the heroes of the Bloody Sunday massacre, we must
17 not allow their sacrifices to be in vain.

18 Thank you, Mr. President.

19 ACTING PRESIDENT FLANAGAN: Thank
20 you, Senator Parker.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President,
23 before we adopt the Resolution Calendar, I
24 believe Senator Breslin has a resolution on that
25 calendar.

1 And, Senator, you want to open that
2 up, Resolution Number 3729, to members?

3 SENATOR BRESLIN: Yes, thank you,
4 Senator Libous. I request that it be opened up
5 to all members and anyone not wishing to be on it
6 notify the desk.

7 ACTING PRESIDENT FLANAGAN: Thank
8 you, Senator Breslin.

9 SENATOR BRESLIN: Thank you,
10 Mr. President.

11 SENATOR LIBOUS: Mr. President,
12 could I now move the adoption of the Resolution
13 Calendar.

14 ACTING PRESIDENT FLANAGAN: All in
15 favor of adopting the Resolution Calendar signify
16 by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT FLANAGAN:
19 Opposed, nay.

20 (No response.)

21 ACTING PRESIDENT FLANAGAN: The
22 Resolution Calendar is adopted.

23 Senator Libous.

24 SENATOR LIBOUS: Mr. President,
25 before we move on, I want to take a moment to

1 recognize all the outstanding young people who
2 have joined us in the chamber. They're brought
3 to us here by the League of Women Voters, and I'm
4 told that they have been here for a couple of
5 days and will resume after session today.

6 They have been shadowing members of
7 the Assembly and have been shadowing members of
8 the Senate today.

9 And I just think, Mr. President, it
10 is outstanding to see our young people here that
11 care about government, they want to learn about
12 government, they want to see how we function.
13 And they can probably give us a few
14 recommendations on how we might even be able to
15 function better.

16 But I just want to welcome them all
17 on behalf of Senator Skelos and both the Majority
18 and Minority here and say that we hope you have a
19 learning experience, it is a beneficial
20 experience, and we really enjoy having you with
21 us this afternoon.

22 (Applause.)

23 ACTING PRESIDENT FLANAGAN:
24 Senator Libous.

25 SENATOR LIBOUS: I believe that

1 Senator Young should be called on for the
2 purposes of an announcement.

3 ACTING PRESIDENT FLANAGAN:
4 Senator Young.

5 SENATOR YOUNG: Thank you,
6 Mr. President.

7 Today is such a special day for me
8 because, as you look up into the gallery, you see
9 that it's filled with young people. Those young
10 people are from my district. They're the tenth-,
11 eleventh-, and twelfth-graders from Frewsburg
12 Central School in Chautauqua County, right along
13 the Pennsylvania border.

14 And they had to travel nearly six
15 hours to get to Albany. As you know, I represent
16 the far western region of New York State.

17 And I especially want to thank
18 Mr. Nelson, who came today, but all the adult
19 chaperones. Mr. Nelson actually teaches
20 participation in government to the
21 twelfth-graders, and I go to speak to their class
22 whenever I can. And so I want to thank him, but
23 also Shane Peterson, who is a senior this year
24 and was a driving force -- he's a student, and he
25 wanted to make sure that they had the opportunity

1 to come to Albany.

2 So I just wanted to say to them:
3 Welcome. They've been on a tour, they've been to
4 the State Museum. But there's no better way to
5 learn about state government than to be here and
6 experience it yourself.

7 So I just want to say to all the
8 students what a great job you're doing. It's so
9 wonderful to have you. I get very few classes
10 because we are so far away, but I want to say to
11 you I'm glad you could come, and keep up the
12 great work.

13 (Applause.)

14 ACTING PRESIDENT FLANAGAN:
15 Senator Libous.

16 SENATOR LIBOUS: Thank you,
17 Mr. President.

18 I believe that Senator Farley has
19 Resolution Number 3747 at the desk. Could we
20 please read it in its entirety and then, before
21 its adoption, call on Senator Farley.

22 ACTING PRESIDENT FLANAGAN: The
23 Secretary will read.

24 THE SECRETARY: Legislative
25 Resolution Number 3747, by Senator Farley,

1 recognizing April 2012 as Child Abuse Prevention
2 Month.

3 "WHEREAS, The State of New York
4 takes great pride in participating in months of
5 awareness of important issues; and

6 "WHEREAS, Court-Appointed Special
7 Advocates (CASA) of Fulton and Montgomery
8 Counties will commemorate Child Abuse Prevention
9 Month during its Pinwheel for Prevention
10 campaign, culminating with a Celebration of
11 Children Showcase on May 11, 2012; and

12 "WHEREAS, The public cares deeply
13 about child abuse, and a majority report that
14 child abuse is a very important moral issue to
15 them; and

16 "WHEREAS, Preventing child abuse
17 and neglect is a community issue that depends on
18 involvement of people throughout the community;
19 and

20 "WHEREAS, Child abuse and neglect
21 not only directly harm children but also
22 increase the likelihood of long-term physical and
23 mental health problems, alcohol and substance
24 abuse, continued family violence and criminal
25 behavior; and

1 "WHEREAS, Child maltreatment often
2 occurs when people find themselves in stressful
3 situations, without community resources, and
4 don't know how to cope; and

5 "WHEREAS, The majority of child
6 abuse cases stem from situations and conditions
7 that are preventable in an engaged and supportive
8 community; and

9 "WHEREAS, Child abuse and neglect
10 can be reduced by making sure each family has the
11 support they need in raising their children in a
12 safe, nurturing environment; and

13 "WHEREAS, Effective child abuse
14 prevention programs succeed because of
15 partnerships created among social service
16 agencies, schools, faith communities, civic
17 organizations, law enforcement agencies, and the
18 business community; now, therefore, be it

19 "RESOLVED, That this Legislative
20 Body pause in its deliberations to recognize
21 April 2012 as Child Abuse Awareness Month; and be
22 it further

23 "RESOLVED, That copies of this
24 Resolution, suitably engrossed, be transmitted to
25 the Court-Appointed Special Advocates (CASA) of

1 Fulton and Montgomery Counties."

2 ACTING PRESIDENT FLANAGAN:

3 Senator Farley on the resolution.

4 SENATOR FARLEY: Thank you,
5 Mr. President.

6 In the gallery with us today is
7 Ladan Alomar, executive director of Centro Civico
8 of Amsterdam, New York, which operates the
9 Court-Appointed Special Advocates, CASA.

10 Ladan has been a leading advocate
11 for children for many years. The prevention of
12 child abuse and its causes, that has always been
13 near and dear to her heart. Her extraordinary
14 dedication has had a positive impact on the lives
15 of countless children in our community.

16 The observance of Child Abuse
17 Prevention Month will conclude with the
18 celebration of the Children's Showcase on
19 May 11th at the BOCES in Johnstown, New York,
20 beginning at 3:00 p.m.

21 It is always vitally important to
22 protect the safety of our residents, especially
23 our children. I commend Ladan Alomar,
24 Centro Civico, and CASA for their active role in
25 raising awareness in the preventing of child

1 abuse and neglect.

2 And, Mr. President, I'd like you to
3 recognize Ladan Alomar, who is in our gallery
4 today. And thank you very much.

5 ACTING PRESIDENT FLANAGAN: The
6 chair certainly recognizes Ms. Alomar.

7 Welcome.

8 (Applause.)

9 ACTING PRESIDENT FLANAGAN: Thank
10 you, Senator Farley.

11 The question is on the resolution.
12 All those in favor signify by saying aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT FLANAGAN:
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT FLANAGAN: The
18 resolution is adopted.

19 Senator Libous.

20 SENATOR LIBOUS: Mr. President,
21 Senator Farley would also like to open up that
22 resolution up for cosponsors.

23 If anyone wishes not to be on the
24 resolution, please let the desk know. Otherwise,
25 all members will be on the resolution.

1 ACTING PRESIDENT FLANAGAN: So
2 ordered, Senator Libous.

3 SENATOR LIBOUS: Mr. President,
4 thank you.

5 I believe there's a resolution at
6 the desk by Senator McDonald, Number 3701.
7 Please have it read in its entirety and before
8 its adoption call on Senator McDonald.

9 ACTING PRESIDENT FLANAGAN: The
10 Secretary will read.

11 THE SECRETARY: Legislative
12 Resolution Number 3701, by Senator McDonald,
13 memorializing Governor Andrew M. Cuomo to
14 proclaim April 2012 as Autism Spectrum Disorders
15 Awareness Month in the State of New York.

16 "WHEREAS, It is the sense of this
17 Legislative Body to memorialize Governor Andrew
18 M. Cuomo to proclaim April 2012 as Autism
19 Spectrum Disorders Awareness Month in the State
20 of New York; and

21 "WHEREAS, 'Autism Spectrum
22 Disorders,' or ASDs, refers to neurobiological
23 conditions including Autism, Asperger Syndrome,
24 Rett's Syndrome, and other pervasive
25 developmental disorders; and

1 "WHEREAS, ASDs, the third most
2 common type of developmental disability in the
3 United States, are afflictions occurring in
4 children before the age of three, and are
5 recognized by unresponsiveness to human contact,
6 deficits in language development, and peculiar
7 reactions to environmental stimuli; and

8 "WHEREAS, Affecting over
9 1.5 million Americans, the cause or causes of
10 ASDs are unknown; and

11 "WHEREAS, One in every 110 children
12 nationally are diagnosed with an ASD; and

13 "WHEREAS, ASDs know no racial,
14 ethnic or social boundaries, and diagnoses are
15 four times more prevalent in boys than girls; and

16 "WHEREAS, ASDs interfere with the
17 normal development of children's reasoning,
18 social interaction, and communication skills,
19 causing those diagnosed to have difficulty
20 relating to others; and

21 "WHEREAS, Over the past 30 years,
22 significant progress has been made in the areas
23 of research, medicine, diagnostics, and therapies
24 for ASDs, resulting in improved quality of life
25 for those with ASDs and their loved ones; and

1 "WHEREAS, It is in the interest of
2 New York State to recognize the achievements made
3 and to continue these efforts by promoting
4 awareness and fostering understanding of ASDs;
5 and

6 "WHEREAS, Autism Awareness Month
7 has been recognized nationally since 1996; now,
8 therefore, be it

9 "RESOLVED, That this Legislative
10 Body pause in its deliberations to memorialize
11 Governor Andrew M. Cuomo to proclaim April 2012
12 as Autism Spectrum Disorders Awareness Month in
13 the State of New York; and be it further

14 "RESOLVED, That a copy of this
15 Resolution, suitably engrossed, be transmitted to
16 The Honorable Andrew M. Cuomo, Governor of the
17 State of New York."

18 ACTING PRESIDENT FLANAGAN:
19 Senator McDonald on the resolution.

20 SENATOR MCDONALD: Thank you,
21 Mr. President.

22 And thank you for the resolutions
23 before this that were all so important to the
24 people of our community.

25 Thank you to each and every Senator

1 here and our colleagues in the Assembly and our
2 Governor for making sure that on this particular
3 issue that's relatively new in American society
4 that we're getting ready and have already
5 accomplished some very serious things like the
6 autism insurance bill earlier this year. And
7 we're getting ready to take on this issue.

8 All these young people sitting
9 here, in your generations, if we don't do
10 anything, you may be parents of people with
11 autism or similar-type disabilities. If we don't
12 do anything, that sadness will be with you for
13 the rest of your lives and that child's life.

14 We're at a focal point, and that
15 focal point is that one out of 90 people are
16 being diagnosed with this terrible problem. We
17 have to do something. And it's not unique; we
18 have so many different issues we have to deal
19 with. And that's the real reason we're here, is
20 to help people.

21 So this is a chance for the young
22 people to learn something very real in their
23 personal lives. Inevitably, everybody's family
24 gets impacted by some kind of health problem --
25 cancer, autism, abuses. So why are we a

1 society? Why are you here?

2 We can't do it by ourselves.

3 People like myself and my family, we have to turn
4 to extended family, if we have it; we have to
5 turn to the good graces of the Lord and the good
6 graces of our state and federal government and
7 our local communities.

8 So this is not just a resolution,
9 this is a challenge. And the challenge is this
10 is why we're Americans, this is why we're human
11 beings: To stick together, to care for these
12 people who can't care for themselves. No matter
13 what their problem is, way beyond autism, just to
14 take care of our own people. And that's what
15 we're here for.

16 So take that away when you go back
17 to your schools, that these people in this house,
18 the house down the hallway, and our Governor
19 care.

20 So I want to thank you, as a person
21 who's not only chairman of the New York State
22 Senate Mental Health and Disabilities Committee
23 but also the grandfather of two little boys,
24 brothers, who are autistic, that, like all of our
25 special people, are the highlight of our lives.

1 Thank you.

2 ACTING PRESIDENT FLANAGAN: Thank
3 you, Senator McDonald.

4 Senator Fuschillo on the
5 resolution.

6 SENATOR FUSCHILLO: Thank you very
7 much, Mr. President.

8 Let me take this opportunity to
9 thank Senator McDonald for his leadership.

10 This November 1st is a major step
11 forward in New York State, when the insurance law
12 takes effect that will for the first time provide
13 insurance reimbursement for the diagnosis,
14 treatment, and therapy of individuals living with
15 autism.

16 And I want to thank Senator
17 McDonald, especially his two boys, his
18 grandchildren, who are autistic, who really put a
19 face on the issue and how important it is for
20 families to have this relief. Because they've
21 been discriminated against for many, many years
22 when insurance companies have denied them
23 reimbursement. And they've had to live almost in
24 poverty to provide the necessary treatment for
25 their children who are growing older.

1 And as Senator McDonald said, the
2 issue just doesn't rest with this insurance law,
3 because there are many other issues that we have
4 to deal with with families who have individuals,
5 loved ones, with autism.

6 Today you'll notice, members, when
7 you leave here and go back to the Legislative
8 Office Building, there are quilts being displayed
9 by Autism Speaks. And those quilts were made up
10 by children. And I ask all of you to take time
11 to go look at those quilts and look at the care
12 and love that was given to that.

13 You know, April now being Autism
14 Month really highlights the continued awareness
15 and importance that we as a legislative body must
16 do more to help these families, because they're
17 getting older. And the biggest fear of parents
18 is what's going to happen to my children when I'm
19 no longer here. And we have that responsibility
20 incumbent upon us to ensure that they're
21 protected for the rest of their lives.

22 Thank you, Senator. Thank you for
23 your leadership. I support the resolution.

24 ACTING PRESIDENT FLANAGAN: Thank
25 you, Senator Fuschillo.

1 Senator Farley on the resolution.

2 SENATOR FARLEY: Thank you,
3 Mr. President.

4 Yes, I rise to salute my colleague
5 Senator McDonald, who's been absolutely
6 relentless on behalf of autism.

7 You know, it's one of the mysteries
8 of our time right now that autism is an area that
9 is growing. They don't know why, whether it's
10 the environment or whatever it is. But it's so
11 good to see the State of New York and the nation,
12 for that matter, recognizing that autism is
13 something that we have to address and attack.

14 And we have a leader in this state
15 that, as I said, has been relentless on behalf of
16 autism. And I salute you for that, Roy.

17 ACTING PRESIDENT FLANAGAN: Thank
18 you, Senator Farley.

19 Senator Rivera on the resolution.

20 SENATOR RIVERA: Thank you,
21 Mr. President.

22 It was only yesterday, my
23 colleagues, that I stood up to talk a little bit
24 about my brother, José Manuel Rivera, Papotin. I
25 just like the fact, by the way, that that's going

1 to be on the record forever, my brother's
2 nickname.

3 And I wanted to just talk for a few
4 minutes about my father. And back in the early
5 1970s when my brother was diagnosed for the first
6 time, there were very few people knew much about
7 autism. It has been 41 years since he was born,
8 and in that period of time we've actually done a
9 lot of work to determine the different levels at
10 which somebody can be stricken with this disease
11 and this condition.

12 And it is exactly times like this
13 when we talk on the floor of the State
14 Legislature about this issue -- whether declaring
15 whether it be a week or a month, talking about
16 establishing a task force on autism and adults
17 with autism, as we did yesterday -- that I think
18 that there is definitely a good reason why
19 legislatures exist. We can do a lot to bring
20 attention to this subject, to talk about how
21 we've dealt with it over the years and every
22 single day learn a little bit more about how best
23 to address these concerns.

24 So today I stand up to join my
25 voice to all my colleagues who have thanked

1 Senator McDonald for his leadership. Because it
2 is part of our continuing to struggle to make
3 sure these that these folks, we can recognize
4 what their disease is, we can recognize the ways
5 that we can help them so they can continue to be
6 productive members of our communities.

7 And I mentioned my father because
8 he actually did a lot of research on this issue
9 back in the early '70s before it was really
10 diagnosed. And if it wasn't for that work, my
11 brother today wouldn't have graduated high school
12 and college and wouldn't have a full-time job.

13 And it is my father who I think
14 Senator McDonald is somebody that kind of reminds
15 me of him, because it is his leadership and
16 his -- because he always reminds us of this all
17 the time about his grandsons. And it just
18 reminds me a little bit of the work that my
19 father did to make sure that my brother is where
20 he is today.

21 So, Senator McDonald, again, I
22 thank you for this resolution and for your
23 continued leadership on this issue.

24 Thank you, Mr. President.

25 ACTING PRESIDENT FLANAGAN: Thank

1 you, Senator Rivera.

2 Senator Parker on the resolution.

3 SENATOR PARKER: Thank you,
4 Mr. President. On the resolution.

5 I'm actually rising to add my voice
6 to the chorus of those who are thanking
7 Senator McDonald for his leadership on the issue
8 of autism spectrum disorders.

9 And I think that this resolution
10 that declares April Autism Spectrum Disorders
11 Awareness Month is really, really critical.
12 Particularly because it's April, and so there's
13 going to be a number of activities both
14 nationally and around the state that address the
15 issue of autism.

16 But April 1st, as you know, is the
17 beginning of our fiscal year. And really the
18 best thing that we could be doing in this chamber
19 is, over the next couple of days as we pass the
20 budget, making sure that we do the best that we
21 possibly can in our budget to support families
22 and people who are affected by autism spectrum
23 disorders.

24 It's not one disorder, it's a
25 number of them, and sometimes they're hard to

1 detect, as you heard Senator Fuschillo talk about
2 the great impact this has on families. And
3 certainly Senator Rivera understands that as
4 well, that we need to really do far more than we
5 have done, both in our budget and within the
6 context of our state agencies, to support these
7 families.

8 And so, again, I rise to celebrate
9 this resolution but also recommit myself to work
10 alongside the members of this chamber to make
11 sure we're providing both more services and more
12 support, both to the people, the organizations,
13 but most importantly the families and individuals
14 who are dealing with this every single day.

15 ACTING PRESIDENT FLANAGAN: Thank
16 you, Senator Parker.

17 Senator Duane on the resolution.

18 SENATOR DUANE: Thank you,
19 Mr. President.

20 I just want to give a little bit of
21 context of my interest and perhaps you might call
22 it passion about this issue. When I was a
23 teenager I volunteered for a CYO camp, a Brooklyn
24 Diocese CYO camp for developmentally challenged
25 children. And I in retrospect know that there

1 were also children who had autism, but it was not
2 diagnosed. And the children in that camp were
3 among the most lovable children I have ever met.

4 And, you know, later on my younger
5 brother was to have a brain tumor which affected
6 not just his -- you know, caused him to have a
7 physical disability but also some mental health
8 issues. And that happened in early adolescence.
9 And sadly, he died in his mid-thirties from a
10 second brain tumor.

11 But I truly believe that physical
12 disabilities -- and many of you remember my
13 ardent -- my passion for Timothy's Law and to try
14 to reduce stigma around mental health challenges
15 equal to physical health challenges.

16 And it was a true pleasure to work
17 with Senator McDonald and Senator Fuschillo. And
18 you're going to have to forgive me if I forget
19 the others who worked on it. I'll name a couple
20 more -- former Senator Craig Johnson, Senator
21 Breslin. I was in the mix, proudly. And forgive
22 me if I've left someone out who was involved in
23 working on this issue.

24 And it was, I think, from my point
25 of view one of the most wonderful -- one of the

1 most wonderful things that ever happened in the
2 Senate in my time here.

3 And, you know, I was saddened when
4 former Governor Paterson vetoed the bill that we
5 did, but I'm happy that finally Governor Cuomo
6 signed a bill that will really help families.

7 And, you know, there are many --
8 there's several things of which I'm proud to have
9 worked on, and I know that the people who have
10 worked on this, who worked on this issue have
11 many things to be proud of. But I want you to
12 know most sincerely that on my list of things
13 that I'm proud that I worked on, this is it.

14 And I believe that the bill passed
15 unanimously both times that we passed this bill,
16 both parties unanimously. And I truly felt at
17 both of those moments in time that we behaved
18 like a real Senate, and we can always do that.
19 And if we ever start to stray from how we really
20 can operate, I encourage everyone to remember
21 those two moments when we worked so well
22 together.

23 And I again want to thank
24 Senator McDonald because he shared his personal
25 stories with us. And when people come and lobby

1 I always encourage them, when they see other
2 Senators, to tell their personal stories. And
3 the personal stories involved in this bill were
4 enough to move each and every member of this
5 Senate.

6 And a moment for us to be very
7 proud. And thank you, Senator McDonald, and
8 everyone who has been involved and passionate
9 about this issue.

10 Thank you, Mr. President.

11 ACTING PRESIDENT FLANAGAN: Thank
12 you, Senator Duane.

13 Senator Huntley on the resolution.

14 SENATOR HUNTLEY: Thank you,
15 Mr. President.

16 I would like to take this
17 opportunity to commend Senator McDonald for the
18 work that he does. I'm the ranker on his
19 committee and I can tell you, no pun intended,
20 but it's one of the best committees I've been on,
21 with a person who I enjoy working with, a person
22 who's warm and affectionate about what he does,
23 about his family. And it's indeed been a
24 pleasure just to be in the company of someone who
25 is so very sincere.

1 And I just want to say to you it's
2 been really a great pleasure, and I wish you and
3 your family Godspeed.

4 ACTING PRESIDENT FLANAGAN: Thank
5 you, Senator Huntley.

6 Senator Kennedy on the resolution.

7 SENATOR KENNEDY: Yes, thank you,
8 Mr. President.

9 It's been quite some time since
10 we've spent so much time on a resolution --
11 rightfully so on this particular one.

12 Raising awareness and focus of
13 autism, autism spectrum disorder, is incredibly
14 important to this community, this great state.
15 We all owe you, Senator McDonald, a tremendous
16 debt of gratitude as individuals, as
17 representatives of respective districts, but also
18 as family members and as just members of this
19 great community and this great state, to your
20 leadership on this all-important issue.

21 Myself, I've had the opportunity as
22 an occupational therapist to work with families
23 of individuals and most importantly to work with
24 individuals with all sorts of disabilities in
25 their background. Some of the greatest

1 individuals that I've worked with have been
2 individuals who have the autism spectrum
3 disorder.

4 This state, this great state,
5 having last year, with your leadership, Senator
6 McDonald, taken such a tremendous step in the
7 right direction to help these families that are
8 impacted on a daily basis of this disorder is --
9 again, we all owe you a debt of gratitude.

10 We look forward this month as we
11 recognize this disease and this disorder in these
12 chambers to work with you to further the
13 awareness and the impact that state legislation,
14 driven through your committee, can have on
15 families all across New York State.

16 Thank you, Mr. President.

17 ACTING PRESIDENT FLANAGAN: Thank
18 you, Senator Kennedy.

19 Senator Stewart-Cousins on the
20 resolution.

21 SENATOR STEWART-COUSINS: Thank
22 you, Mr. President.

23 I rise too, and certainly extend my
24 gratitude to Senator McDonald. But also, as I
25 look around, I see so many young people here

1 today. They're shadowing many of us as
2 legislators. I know that my own shadowers,
3 Marialisa and Sam, are behind me.

4 But I thought it was important,
5 since you're here, that we're asking the Governor
6 and we're all acknowledging how important this
7 issue is -- and I know probably each and every
8 one of you are in touch or know someone who also
9 has autism. So while you watch what happens
10 today, understand that it's not all the time that
11 we discuss issues that everybody knows a little
12 about. Autism is one of those issues.

13 So as you watch, as you shadow,
14 remember the discussion. Remember that in this
15 Legislature, in this body, we talked about things
16 that we as government can do -- not only passing
17 legislation and resolutions, but raising
18 awareness.

19 And all of you who are here are
20 part of that effort to raise awareness. Because
21 together, everywhere that we go, we can make it
22 better for someone.

23 So again, welcome. And again,
24 thank you, Senator McDonald, for what you've
25 done.

1 ACTING PRESIDENT FLANAGAN: Thank
2 you, Senator Stewart-Cousins.

3 The question is on the resolution.
4 All those in favor signify by saying aye.

5 (Response of "Aye.")

6 ACTING PRESIDENT FLANAGAN:
7 Opposed, nay.

8 (No response.)

9 ACTING PRESIDENT FLANAGAN: The
10 resolution is adopted.

11 Senator Libous.

12 SENATOR LIBOUS: Mr. President,
13 Senator McDonald would also open this resolution
14 to all members. If there's any member that
15 wishes not to be a cosponsor, please advise the
16 desk.

17 ACTING PRESIDENT FLANAGAN: Any
18 Senator wishing not to be a cosponsor of this
19 resolution please notify the desk.

20 Senator Libous.

21 SENATOR LIBOUS: There's a
22 resolution by Senator Duane, Number 3716, at the
23 desk. Can we read its title, call on Senator
24 Duane, and move for its adoption.

25 ACTING PRESIDENT FLANAGAN: The

1 Secretary will read.

2 THE SECRETARY: Legislative
3 Resolution 3716, by Senator Duane, commemorating
4 the 101st Anniversary of the Triangle Shirtwaist
5 Factory Fire on March 25, 2012.

6 ACTING PRESIDENT FLANAGAN:
7 Senator Duane on the resolution.

8 SENATOR DUANE: Thank you,
9 Mr. President.

10 Today, as we do every year, the
11 Senate honors the memories of the workers killed
12 in the Triangle Shirtwaist Factory Fire. The
13 resolution -- which I encourage everyone to read,
14 because it gives us the awful details of that day
15 when 146 people, including former Senator Serph
16 Maltese's grandmother and two of his aunts, were
17 killed in that Triangle Shirtwaist Factory. And
18 they were horrible and -- horrible deaths.

19 And instead of repeating the
20 chronology of events, I do want to talk about the
21 idea of the Triangle Fire as what's referred to
22 as an industrial accident.

23 And that's actually an incorrect
24 description. To say that 146 people died because
25 of a fire in a wastebasket, it's like saying

1 World War I was about an archduke being fired at
2 Sarajevo. It doesn't tell the whole story. And
3 this -- because this -- what happened that day
4 was not an accident. It was because of the
5 policies that were in place at the time.

6 So we remember and we mourn the
7 victims. And we also have to remember the
8 perpetrators. Not as individual factory owners,
9 but, you know, let's look at our history and the
10 social and economic and political culture that at
11 that time really were responsible for these
12 literally crimes against the lives and dignity of
13 working people, including Senator Maltese's
14 family.

15 And even at the same time as the
16 Triangle Fire, it's estimated that over
17 100 Americans died in the workplace every day.
18 One hundred people died in the workplace every
19 day. And so the Triangle Fire isn't an isolated
20 incident, it was just a more egregious version.
21 And it's a version of something that happened in
22 factories and towns and textile mills and
23 slaughterhouses and coal mines across the
24 country. You can read about in The Jungle, by
25 Upton Sinclair.

1 And two years after the Triangle
2 Fire, 31 people were killed in the Binghamton
3 Clothing Company, when a fire broke out in the
4 Wall Street building where it was housed and the
5 deputy marshal reported that a lack of fire
6 escapes contributed to the death toll. And
7 events like these were horrible and were
8 commonplace.

9 And I encourage my colleagues and
10 visitors not to forget how difficult the struggle
11 was to win the workplace safety rules that we
12 take for granted today. In 1909, shirtwaist
13 workers citywide, they walked out in a demand for
14 better pay and working conditions, but they were
15 ignored by the Triangle management.

16 And after the fire, the factory
17 owners' insurance company reimbursed them \$60,000
18 more than their estimated losses. They were then
19 cleared of all criminal charges and paid out \$75
20 per victim in a civil suit. In other words, the
21 factory owners who ignored demands for reform,
22 the factory owners who had locked their employees
23 in to die turned a \$50,000 profit thanks to the
24 legal and political systems of their day.

25 That was the world in 1911. And

1 progress only came through the long-term efforts
2 of organized labor -- and we need to remember
3 that more than ever today -- and public disgust
4 at such terrifying working conditions, which we
5 must educate young people about because it is not
6 talked about, it's not a big enough part of
7 history books.

8 And progress came through political
9 will. And I met one of my colleagues here
10 because of her union activism, and together we
11 created an amazing bill when I was in the
12 New York City Council that to this day is a model
13 of progress for hardworking people in New York
14 City.

15 You know, one of the things that
16 happened because of the horrible tragedy of that
17 fire was that the Legislature, and really
18 responding to public pressure -- so public
19 pressure. Pressure us, keep pressuring us. And
20 that was what caused the overhauling of our
21 state's fire code, evacuation rules, and sanitary
22 requirements.

23 And New York's own Robert Wagner
24 would go on to author the landmark National Labor
25 Relations Act, and Governor Franklin Roosevelt

1 appointed Frances Perkins -- a former senator --
2 as Labor Secretary. That's Ms. Frances Perkins.
3 Oh, FDR was a senator. Yeah, I didn't think
4 Frances Perkins was. I was like, I didn't
5 remember that from the -- yes, FDR, he sat right
6 over there. Right over there. And smoked.
7 Which he shouldn't have. Anyway. But Frances
8 Perkins, a New Yorker, was appointed FDR's Labor
9 Secretary.

10 But, you know, over and over at
11 that time there were patterns of industrial
12 accidents. And they weren't accidents. And the
13 victims tend to be marginalized, whether they
14 were 16-year-old Russian Jewish girls in New York
15 or first-generation Italians who made up the bulk
16 of the victims at Monongah. And over and over,
17 cries for reform and resistance by the
18 industries, and eventual progress as society and
19 government came to recognize the brutality of how
20 we treated our own people.

21 By 1970 it was estimated that
22 40 Americans died each day in the workplace.
23 Today it is approximately 14. But we need to do
24 everything we can to make that zero. So we have
25 come a long way, but we have more to do.

1 And institutions like OSHA, health
2 regulations, safety regulations -- whether in
3 textiles or factories or food processing -- have
4 changed the way Americans work and live, but they
5 have not been bought cheaply. There are still
6 people who make our clothes, pick our produce,
7 and assemble our electronics working in
8 conditions much like the Triangle Factory Fire.

9 And some of this happens at home,
10 as we learn that 25 people were killed in a fire
11 in a chicken plant in North Carolina, having been
12 locked in their factory 80 years after the
13 Triangle Fire.

14 And much of it occurs overseas when
15 people are murdered in, oh, so many countries --
16 Colombia, Guatemala -- for organizing unions.
17 For organizing unions. And Chinese workers have
18 stood up to their own government, demanding the
19 same rights as the young women demanded after the
20 Triangle Fire, the same rights that Martin Luther
21 King demanded for Memphis sanitation workers
22 after two were crushed and killed by a sanitation
23 truck malfunction that was not operating safely.

24 So what stands between us and the
25 society of 20 years ago in North Carolina,

1 50 years ago in Memphis, 100 years ago at
2 23 Washington Place in Greenwich Village is the
3 response of organized labor and social
4 movements. It's what Rose Schneiderman of the
5 Women's Trade Union League demanded when she
6 wrote that it was up to the working people to
7 save themselves. And it is what we must continue
8 to do going forward, working with working
9 people. And we have to do it for the descendants
10 of the victims of the Triangle Factory Fire.

11 I want to quote Fannia Cohn, one of
12 the leaders of the International Ladies Garment
13 Workers Union. After the event, she wrote: "The
14 best memorial for our martyrs of the Triangle
15 Fire is a resolve to continue our efforts to have
16 the workers more strongly united in the economic
17 and political fields, coupled with a workers'
18 education movement that would help to create a
19 new environment lending itself to fundamental
20 political, social, and economic changes."

21 She was with the ILGWU. Another
22 garment workers' union, the Amalgamated Clothing
23 and Textile Workers, incredibly important to the
24 history of Rochester.

25 You know, almost every newspaper in

1 the country has a business section. Why isn't
2 there a section in every newspaper that talks
3 about what happens to the workers who make it
4 possible for those businesses to have that
5 profit?

6 So I challenge me, I challenge us:
7 Our work is not done. This is not a one-day,
8 oh -- this is a day where we have to recommit
9 ourselves. I think this is something that we
10 need to recommit ourselves to every day because
11 future societies will judge us on what we do for
12 working people today.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Senator
15 Parker.

16 SENATOR PARKER: Thank you,
17 Mr. President. On the resolution.

18 Let me begin by thanking Senator
19 Duane for his explanation of the Triangle
20 Shirtwaist Factory Fire and the historical
21 significance of its 101st anniversary. I
22 actually carried a similar resolution the last
23 couple of years.

24 This is really a critical
25 resolution because it really did create the

1 atmosphere and really was the tipping point of
2 making sure that worker safety was improved not
3 just in New York City but really throughout the
4 country.

5 And we certainly, you know --
6 obviously I want to honor the family of one of
7 our former colleagues, Serph Maltese, and his
8 family members that were lost in this fire.

9 I think that part of what Senator
10 Duane tried to cushion us from was the horrific
11 nature of those 146 people who lost their lives
12 that day. These were poor working-class people.
13 And not working class in like firemen, policemen,
14 teachers. We're talking about like immigrant
15 working class. Like, you know, people who were
16 really at the lowest rung of the economic ladder
17 and still working really for cents.

18 And the reason why so many people
19 died in this fire is that they were literally
20 sealed in the place. Making shirts, right? And
21 literally locked in. And they literally couldn't
22 get out. And people were literally -- you know,
23 many of the people, many got burned up. Many
24 jumped to their death instead of burning up in
25 the building.

1 So this really was a horrific act.
2 It's really something that we need to remember.
3 I have a bill, Senate Bill 1819, that actually
4 creates a centennial commission on the Triangle
5 Shirtwaist Factory Fire that I am asking
6 Senator Skelos to bring to the floor and let's
7 pass it again. We passed it in 2010. And we can
8 pass this bill and get this commission going.

9 It would certainly, one, from a
10 historical perspective, create the commission
11 that would commemorate this event so that we --
12 you know, as they say about history, those who
13 fail to learn the lessons of history are doomed
14 to repeat them. So we certainly want to
15 commemorate them.

16 But it also is a commission that
17 would help us look forward as we continue to look
18 for ways to improve working conditions for
19 working people throughout the State of New York.

20 And certainly what my
21 recommendation was to my colleagues was that we
22 pass the bill, create the commission, and the
23 Senate appointment structure should be former
24 Senator Serph Maltese, who I think would
25 certainly be a good addition to that.

1 So Senate Bill 1819, if you didn't
2 get that the first time, Senator Libous, if we
3 can get that to the floor and pass it, I think it
4 would be a great addition to the work that we're
5 currently doing here in the State Senate.

6 Thank you, Mr. President.

7 ACTING PRESIDENT GRIFFO: Senator
8 Stavisky.

9 SENATOR STAVISKY: Thank you,
10 Mr. President.

11 Let me just amplify some of the
12 comments that have been made. First of all,
13 146 people died. And think about it: 129 were
14 women. Many were children; in fact, as young as
15 12 years old. Most of the people who died I
16 believe were under the age of 26, I think, or 27.

17 Why did they die? Because the
18 owner of the factory locked the doors. They
19 couldn't get out. They locked the stairwells,
20 they locked the exits. They could not get out.

21 And what happened as a result?
22 Well, right after that they had a funeral
23 procession, 100,000 people marched in New York
24 City, in Manhattan, at the funeral procession to
25 commemorate the horrific incident.

1 But after that, as Senator Duane
2 said, this gave the International Ladies Garment
3 Workers Union -- which was a relatively new union
4 in 1911. They had been founded in 1900. And
5 that gave them the impetus to organize and to
6 demand better working conditions.

7 But the significance I think is not
8 just to remember history, but to prevent this
9 sort of situation from happening again. And
10 unfortunately, we have sweatshops that exist
11 today. We've got to make sure that we do not
12 patronize those sweatshops. They're dangerous.
13 They employ people who belong in school.

14 And I thank Senator Duane and
15 Senator Parker for their comments. But let us
16 also remember the relatives, the descendants of
17 the fire. I know how important this was to
18 Senator Maltese, and I certainly hope that we
19 continue the tradition of remembering our
20 history.

21 Thank you very much.

22 ACTING PRESIDENT GRIFFO: Senator
23 Savino.

24 SENATOR SAVINO: Thank you,
25 Mr. President.

1 I also want to rise and thank
2 Senator Duane for bringing this resolution and
3 for his very eloquent words about what this
4 means.

5 And we all know how important this
6 issue was to Senator Maltese, not just because he
7 was personally affected by it, as a family member
8 was lost, but also as a leader in the
9 Italian-American community.

10 What happened in the Triangle
11 Shirtwaist Factory was a tragedy. And as we
12 heard Senator Duane and Senator Parker and
13 Senator Stavisky talk about the shockingness of
14 the idea of 146 women being locked in a factory
15 and being terrified and being forced to jump out
16 the window rather than burn to death.

17 And we hear about the efforts that
18 came after that from Robert Wagner, who went on
19 to pen the National Labor Relations Act, the
20 Wagner Act, which grants workers the right to
21 join together to fight these types of
22 conditions.

23 And we reflect that in the last
24 100 years the likelihood of American workers
25 dying in factories that way has diminished

1 considerably. We haven't exactly eradicated it.

2 But I think what's even more
3 important is that we should stop and think today,
4 as we commemorate the Triangle Shirtwaist Factory
5 Fire, and we are happy that American workers no
6 longer toil under those types of conditions --
7 unless they're not caught at it. But I would
8 think every one of us might want to take off
9 their jacket or look inside the label of their
10 clothes and see where the clothing that you are
11 wearing today was made.

12 The likelihood is it was made in
13 China or Vietnam or Bangladesh or somewhere else
14 in the world where the conditions that existed in
15 the Triangle Shirtwaist Factory are not an
16 anomaly, they are not an exception, they are the
17 rule.

18 So while we reflect on the advances
19 of workers in the United States and we look at
20 the history of the Triangle Shirtwaist Factory
21 and we say "never again here," maybe it's time we
22 start saying "never again there" as well.

23 Thank you, Mr. President.

24 ACTING PRESIDENT GRIFFO: The
25 question is on the resolution. All in favor

1 signify by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT GRIFFO:

4 Opposed?

5 (No response.)

6 ACTING PRESIDENT GRIFFO: The
7 resolution is adopted.

8 Senator Libous.

9 SENATOR LIBOUS: Thank you,
10 Mr. President.

11 At this time could we have the
12 reading of the noncontroversial calendar, please.

13 ACTING PRESIDENT GRIFFO: The
14 Secretary will read.

15 SENATOR DUANE: Mr. President, I
16 would like to offer the opportunity for everyone
17 to sign on.

18 SENATOR LIBOUS: Absolutely.

19 Senator Duane would like -- all
20 members will be put on the resolution. And if
21 there are any members who wish to be taken off,
22 to let the desk know.

23 ACTING PRESIDENT GRIFFO: So
24 noted.

25 SENATOR LIBOUS: Thank you,

1 Senator Duane.

2 Reading of the noncontroversial
3 calendar.

4 ACTING PRESIDENT GRIFFO: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number
7 409, by Senator Fuschillo, Senate Print 6715, an
8 act to amend the Vehicle and Traffic Law.

9 ACTING PRESIDENT GRIFFO: Read the
10 last section.

11 THE SECRETARY: Section 7. This
12 act shall take effect immediately.

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 58. Nays,
17 1. Senator Parker recorded in the negative.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 410, by Senator Fuschillo, Senate Print 6723, an
22 act to amend the Vehicle and Traffic Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 58. Nays,
6 1. Senator Parker recorded in the negative.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 413, by Senator Robach --

11 SENATOR BRESLIN: Lay it aside.

12 ACTING PRESIDENT GRIFFO: The bill
13 is laid aside.

14 THE SECRETARY: Calendar Number
15 442, by Senator Zeldin, Senate Print 3844B, an
16 act to amend Chapter 397 of the Laws of 1996.

17 ACTING PRESIDENT GRIFFO: There is
18 a home-rule message at the desk.

19 Read the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT GRIFFO: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 58. Nays,

1 1. Senator Parker recorded in the negative.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 444, by Senator Young, Senate Print 4359, an act
6 to amend the General Municipal Law.

7 ACTING PRESIDENT GRIFFO: Read the
8 last section.

9 THE SECRETARY: Section 7. This
10 act shall take effect immediately.

11 ACTING PRESIDENT GRIFFO: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 58. Nays,

15 1. Senator Parker recorded in the negative.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 446, by Senator Zeldin, Senate Print 6193, an act
20 in relation to authorizing.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect immediately.

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58. Nays,

4 2. Senators Bonacic and Parker recorded in the
5 negative.

6 ACTING PRESIDENT GRIFFO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 447, by Senator Marcellino, Senate Print 6363, an
10 act to amend Chapter 226 of the Laws of 2003.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

13 THE SECRETARY: Section 4. This
14 act shall take effect immediately.

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58. Nays,

19 2. Senators Ball and Parker recorded in the
20 negative.

21 ACTING PRESIDENT GRIFFO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 449, by Member of the Assembly Magnarelli,
25 Assembly Print Number 9336, an act to amend the

1 County Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect immediately.

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59. Nays,
10 1. Senator Parker recorded in the negative.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 Senator DeFrancisco, why do you
14 rise?

15 SENATOR DeFRANCISCO: Just to
16 explain my vote.

17 ACTING PRESIDENT GRIFFO: Senator
18 DeFrancisco to explain his vote.

19 SENATOR DeFRANCISCO: This is an
20 important bill for Central New York. And it
21 basically authorizes Onondaga County to
22 collaborate with other counties in Central
23 New York to operate and maintain a foreign trade
24 zone, which is extremely important to work
25 together, for counties to work together, in this

1 case the counties of Onondaga, Cayuga, Oswego and
2 Madison, in order to bring business in the state.

3 And I would urge everyone to vote
4 yes on this. I'm not quite sure where the
5 opposition could come from. Because it helps
6 Central New York and it helps create jobs in
7 New York State.

8 Thank you, Mr. President.

9 ACTING PRESIDENT GRIFFO: Senator
10 DeFrancisco to be recorded in the affirmative.

11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar Number 449: Ayes, 59. Nays, 1.
14 Senator Parker recorded in the negative.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 Senator Libous, that completes the
18 noncontroversial reading of the calendar.

19 SENATOR LIBOUS: Thank you,
20 Mr. President.

21 Could we now go to the
22 controversial reading of the calendar.

23 ACTING PRESIDENT GRIFFO: The
24 Secretary will ring the bell.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 413, by Senator Robach, Senate Print 702A, an act
3 to amend the Penal Law.

4 ACTING PRESIDENT GRIFFO: An
5 explanation has been requested by Senator
6 Krueger.

7 Senator Breslin, why do you rise?

8 SENATOR BRESLIN: Mr. President, I
9 believe there's an amendment at the desk. I ask
10 that the reading of the amendment be waived and
11 that Senator Krueger be allowed to speak on the
12 amendment.

13 ACTING PRESIDENT GRIFFO: Senator
14 Krueger, you are waiving, then, the request for
15 the explanation?

16 SENATOR KRUEGER: No, let's do the
17 hostile first.

18 ACTING PRESIDENT GRIFFO: Okay.
19 Senator Breslin, there is an amendment at the
20 desk.

21 Senator Breslin, I have reviewed
22 the amendment and ruled that it is not germane to
23 the bill and therefore out of order.

24 SENATOR BRESLIN: Yes,
25 Mr. President, I would appeal the decision of the

1 chair and request that Senator Krueger be heard
2 on that appeal.

3 ACTING PRESIDENT GRIFFO: Senator
4 Krueger, you may be heard.

5 The question is on the appeal of
6 the ruling of the chair, and Senator Krueger now
7 will be heard on that.

8 SENATOR KRUEGER: Thank you very
9 much. I am appealing the ruling of the chair.

10 My amendment to Senator Robach's
11 bill is clearly germane to the bill. The
12 amendment deals with the same subject matter as
13 the underlying bill in the following respects.

14 Both Senator Robach's bill and the
15 provisions of my amendment propose a new section,
16 145.24, of the Penal Law. Senator Robach's bill
17 creates the new crime of environmental damage to
18 property with a new section, 145.24, of the Penal
19 Law, and my amendment provides the detail for
20 particular types of violations under the same new
21 section.

22 The amendment neither unreasonably
23 expands the object or subject of the underlying
24 bill, nor does it change the purpose, scope, or
25 object of the original bill.

1 The purpose and scope of the bill,
2 as amended as I propose, would remain to hold
3 those who do environmental damage to property
4 criminally liable for their actions.

5 Had the bill been originally
6 introduced as I propose it now to be amended, it
7 would still have required consideration by the
8 same standing committee that reported the
9 underlying bill. My amendments simply expand the
10 details of Senator Robach's bill to allow
11 specific types of environmental damage to fall
12 under both the penal code and also civil code.

13 It is for these reasons that I am
14 offering the amendment today. I do believe it is
15 germane. And I think it's particularly important
16 that we recognize that there are -- excuse me,
17 Mr. President.

18 It is critical to understand that
19 Senator Robach's bill and my amendments both
20 would work to ensure that there are penalties for
21 any person who intentionally takes action which
22 does irreparable harm to the water supply and
23 make clear that any natural gas driller who
24 intentionally discharges hydraulic fracturing
25 compounds into the state's water supply or

1 knowingly covers up a prohibited discharge is in
2 fact violating environmental law.

3 It provides for strict liability
4 for any person who undertakes the activities of
5 hydraulic fracturing or transportation of waste
6 chemicals and products, provides for treble
7 damages when such actions result in personal
8 injury or wrongful death, property damage,
9 reduction in property value, reduction in
10 business value, loss of profits and all other
11 damages caused by such activities.

12 Finally, my amendment, as germane
13 to Senator Robach's bill, would remove any doubt
14 that municipalities have standing to pursue such
15 claims for damages resulting from the
16 exploration, drilling and extraction of natural
17 gas, including high-volume hydraulic fracturing,
18 or hydrofracking.

19 It is for these reasons that I
20 believe my amendment is germane, and I would very
21 much like a vote on the actual amendment.

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Thank
24 you, Senator Krueger. You have been heard on
25 your appeal.

1 The question now is on the appeal
2 of overruling the chair. All those in favor of
3 overruling the chair signify by saying aye.

4 SENATOR BRESLIN: Mr. President,
5 can we have a show of hands.

6 ACTING PRESIDENT GRIFFO: Senator
7 Breslin has requested a show of hands. So
8 ordered.

9 (Senators raised their hands.)

10 ACTING PRESIDENT GRIFFO: The
11 Secretary will announce the results.

12 THE SECRETARY: Ayes, 24.

13 ACTING PRESIDENT GRIFFO: The
14 ruling of the chair is sustained.

15 Read the last section.

16 Senator Krueger.

17 SENATOR KRUEGER: Now if I could
18 ask for an explanation of the bill.

19 ACTING PRESIDENT GRIFFO: An
20 explanation has been requested, Senator Robach,
21 by Senator Krueger.

22 SENATOR ROBACH: Yes,
23 Mr. President.

24 This bill would create the crime of
25 environmental damage of property, which is

1 committed when one, in the furtherance of the
2 commission of another felony, intentionally or
3 recklessly causes property damage that alters,
4 contaminates or destroys the quality of water,
5 soil or air in a remediation amount of more than
6 \$100,000. Environmental damage of property could
7 then be an additional Class C felony.

8 And let me further explain. The
9 genesis of this bill came from an actual incident
10 which happened in my district where an RGE
11 plant -- Rochester Gas & Electric, our main
12 provider of energy -- some criminals, for lack of
13 a better term, broke into the power plant
14 facility, wanted to get the copper out of a
15 surplus transformer and, to get about \$500 of
16 copper, put 4800 gallons of oil into the
17 tributaries, ponds, and eventually into
18 Lake Ontario, causing a million dollars to the
19 ratepayers and the Department of Environmental
20 Conservation to clean that up.

21 After working with people who were
22 shocked at this outcome and also even more
23 surprised to find out there really wasn't too
24 much that could be done about the environmental
25 damage side, I put this bill in place.

1 ACTING PRESIDENT GRIFFO: Senator
2 Krueger.

3 SENATOR KRUEGER: Thank you,
4 Mr. President. If the sponsor could yield to a
5 question or two.

6 ACTING PRESIDENT GRIFFO: Sponsor,
7 will you yield?

8 SENATOR ROBACH: I
9 enthusiastically yield.

10 SENATOR KRUEGER: Well, I
11 enthusiastically ask. Thank you, Mr. Sponsor and
12 Mr. President.

13 So I just attempted to offer
14 amendments to your bill that in fact we did not
15 have an opportunity to vote on. But I actually
16 think that the concerns I was raising could and
17 would be addressed by your bill if it became
18 law.

19 So I'd like to propose a
20 hypothetical and ask the sponsor whether he
21 thinks his law would in fact apply in that
22 situation. Let's say I was the owner of a -- I'm
23 sorry, Mr. President, I want to make sure the
24 sponsor can hear me.

25 ACTING PRESIDENT GRIFFO: Senator

1 Krueger, are you posing a hypothetical or a
2 hypothetical question? Because --

3 SENATOR KRUEGER: Well, I'm giving
4 a hypothetical example and I'm asking it as a
5 question of the sponsor. Thank you.

6 But he was speaking to someone
7 else; I wanted to make sure he had a chance to
8 listen. Thank you.

9 So let's say I was operating a
10 hydraulic drilling site, hydrofracturing at a
11 drilling site in New York, and I know that I'm
12 supposed to remove, under the hypothetical
13 permit, remove the wastewater from the drilling
14 site to an appropriate wastewater decontamination
15 site of some sort, but I decide that I don't
16 really want to spend the money to do that and so
17 I tell my employee to go dump it in a lake
18 instead of taking it to a wastewater facility.

19 Over the course of the trip to the
20 lake or river or pond, with the dangerous waste
21 chemicals being illegally transported to this
22 lake, river or pond, there is an accident. And
23 because these products are actually -- they're
24 flammable, and so the vehicle blows up, the
25 worker is killed, the environmental damage is

1 done --

2 SENATOR LIBOUS: Mr. President,
3 just a point of order.

4 ACTING PRESIDENT GRIFFO: Senator
5 Libous, why do you rise?

6 SENATOR LIBOUS: Is Senator
7 Krueger asking the sponsor a question or is she
8 telling us a story, a hypothetical story of
9 something that may happen?

10 ACTING PRESIDENT GRIFFO: I have
11 asked Senator Krueger -- Senator Robach did yield
12 for a question, as you had requested. You now
13 appear to be discussing the bill in some format.

14 SENATOR KRUEGER: No. No, I'm not
15 discussing the bill, Mr. President.

16 ACTING PRESIDENT GRIFFO: So would
17 you please direct a question to Senator Robach?

18 SENATOR KRUEGER: Certainly.

19 Through you, Mr. President, my
20 question is does Senator Robach believe his bill
21 would apply in a situation where someone who was
22 involved in hydraulic fracturing chose to send
23 their wastewater to an illegal dumping site,
24 there was a tragic accident on the way to the
25 illegal dumping site, and there was an additional

1 felony that took place, perhaps because of the
2 blowing up of the vehicle in addition to the
3 environmental dosage?

4 ACTING PRESIDENT GRIFFO: Senator
5 Krueger -- Senator Krueger --

6 SENATOR KRUEGER: Would that be --
7 excuse me.

8 ACTING PRESIDENT GRIFFO: What is
9 your question?

10 SENATOR KRUEGER: Would your bill
11 in fact apply in that circumstance?

12 SENATOR ROBACH: My answer will be
13 much, much shorter than the question.

14 As I stated in the beginning of
15 this, if it was done in the commission of another
16 felony, that would apply regardless of what the
17 activity was, if it damaged the environment on
18 any topic.

19 SENATOR KRUEGER: Mr. President,
20 through you, I think I will speak on the bill.

21 ACTING PRESIDENT GRIFFO: Senator
22 Krueger on the bill.

23 SENATOR KRUEGER: So I thank the
24 sponsor for his answer. Because while it was a
25 hypothetical question, it was a very real

1 possibility, and he answered yes, that his bill
2 could apply.

3 And in fact you can find in case
4 law in the State of New York any number of
5 circumstances where that's already taken place.
6 Not necessarily with hydraulic fracturing,
7 because we don't actually allow that yet in our
8 state, but through any number of other
9 environmental accidents or intentional
10 accidents.

11 I'll cite People of the State of
12 New York v. Roth, an Onondaga County case from
13 1992, where the employee was cleaning a truck
14 trailer and he died when petroleum vapors
15 exploded. The defendants, charged with
16 manslaughter and negligent homicide, were a
17 petroleum transport company, the district manager
18 and the operations manager of the facility where
19 the deceased worker worked from.

20 The court affirmed dismissal of the
21 charges, finding the evidence presented was
22 insufficient to show the foreseeability of the
23 death, but they did establish that the question
24 of causation in law and environmental damage was
25 real.

1 Unfortunately, we didn't have the
2 right law in New York State to address this. I
3 believe with Senator Robach's law we might in
4 fact have the correct statute.

5 In the People of the State of
6 New York versus Polvino, also Onondaga County,
7 the defendants knew the proper way to dispose of
8 corrosive and hazardous chemicals that were on
9 their property. Evidence showed, however, that
10 the defendant did not follow such correct
11 procedures in removal of the hazardous chemicals
12 and instead hired another man to haul the barrels
13 away. The contents spilled, the hauler died at
14 the scene, caused by lung damage from the spill.
15 There was environmental damage in addition to the
16 felony of the man dying.

17 The court found evidence of
18 foreseeability was sufficient to allow the case
19 of the criminal charge of the worker dying but
20 not necessarily of the violation of environmental
21 law.

22 I believe Senator Robach's law
23 would allow us to go after this type of
24 circumstance, whether it's moving corrosive and
25 hazardous chemicals from a drilling site or from

1 some other site, under our law.

2 Under the People of the State of
3 New York versus Macellaro, 1987, Westchester
4 County, the court allowed a reckless endangerment
5 prosecution where evidence showed that the
6 defendant illegally dumped 35-gallon drums on the
7 side of a roadway rather than correctly removing
8 the hazardous chemicals.

9 One drum was leaking, and when the
10 defendant attempted to remove the hazardous
11 warning label in order to leave the drums by
12 burning off the hazardous warning label with a
13 lighter, the substance ignited instead, causing
14 enormous environmental damage.

15 So in fact there also there was the
16 criminal activity of illegally attempting to dump
17 chemicals. The harm done by the ignition or
18 explosion of the chemicals when someone was
19 trying to hide the fact that they were violating
20 the law, but not a clear statute on penal --
21 excuse me, criminal sanctions, criminal penalties
22 for violations of our environment.

23 So in fact I believe that Senator
24 Robach's bill is an important bill. I think it
25 could have been strengthened with the amendments

1 that I proposed, which included sections of a law
2 I carry, sections of a bill Senator Duane
3 carries, and sections of a bill that Senator Greg
4 Ball carries.

5 So I am happy to support Senator
6 Robach's bill today. I hope it becomes law. But
7 I think it could become an even better law if we
8 were to seriously look at making the amendments
9 to his law that we've recommended today.

10 And so I'm hoping Senator Robach
11 might want to work with me in the future to make
12 his what I believe good bill even better law.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Is there
15 any other Senator wishing to be heard?

16 Hearing none, debate is closed.
17 The Secretary will ring the bell.

18 Can we have some order, please, in
19 the chamber.

20 The Secretary will read the last
21 section.

22 THE SECRETARY: Section 2. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT GRIFFO: Senator
3 Robach to explain his vote.

4 SENATOR ROBACH: Yes,
5 Mr. President, very quickly.

6 I would just encourage folks to
7 support this. This really is a win for all of
8 our constituents in two ways.

9 The first way, it can deter
10 contamination, environmentally dangerous
11 exposure.

12 And secondly, it really, I think,
13 can help people. In the case that I gave you,
14 what happened in my district, it will also
15 protect people from either having to pay through
16 their taxes when the Department of Environmental
17 Conservation is responsible for these types of
18 activities, where they have to clean it up, or,
19 in the case in my district where Rochester Gas &
20 Electric, the utility, had to clean it up, that
21 cost then goes out to the ratepayers.

22 So we can do two good things today
23 by passing this bill: Deter that type of
24 environmental crime in the commission of other
25 felonies and also at the same time hopefully --

1 ACTING PRESIDENT GRIFFO: Excuse
2 me. I ask for order in the chamber, please.

3 Senator Robach, please continue.

4 SENATOR ROBACH: -- and
5 hopefully reduce the chances of increased risk
6 in this type of environmental damage.

7 And I would just encourage people
8 to support that on behalf of all of our
9 constituents.

10 Thank you, Mr. President.

11 ACTING PRESIDENT GRIFFO:

12 Senator Robach to be recorded in the
13 affirmative.

14 Announce the results.

15 THE SECRETARY: In relation to
16 Calendar Number 413, those recorded in the
17 negative are Senators Duane and Parker.

18 Ayes, 58. Nays, 2.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 Senator Libous, that completes the
22 controversial reading of the calendar.

23 SENATOR LIBOUS: Mr. President, is
24 there any further business at the desk?

25 ACTING PRESIDENT GRIFFO: There is

1 none.

2 SENATOR LIBOUS: Thank you,
3 Mr. President.

4 There being no further business,
5 I move that the Senate adjourn until
6 Wednesday, March 28th, at 11:00 a.m.

7 ACTING PRESIDENT GRIFFO: On
8 motion, the Senate stands adjourned until
9 Wednesday, March 28th, at 11:00 a.m.

10 Senate adjourned.

11 (Whereupon, at 4:34 p.m., the
12 Senate adjourned.)

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